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09/855,445	05/15/2001	Joseph Paul-Emile Pierre Cote	13768.35.25.1.1	1736

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EXAMINER

BLENNMAN, AVALON

ART UNIT PAPER NUMBER

2153

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/855,445	Applicant(s) PIERRE COTE ET AL.	
	Examiner Avalon Blenman	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is a first action on the merits of this application and is made **NON-FINAL**. Claims 1-37 are currently pending, of which 1, 30, 31, 33, 34, & 37 are independent claims.

Priority

2. Acknowledgment is made of applicant's claim for priority to parent application 08/682,832, filed 07/12/1996. As such, the effective filing date for the subject matter defined in the pending claims is July 12th, 1996.

Information Disclosure Statement

3. The Information disclosure statement (IDS) submitted has been entered and is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2153

4. Claims **1-10** are rejected under 35 U.S.C. 102(e) as being anticipated by **Daly et al. (US 5,748,896)**, hereinafter **Daly**.

5. In considering independent claims **1 & 31**, **Daly** discloses a method of monitoring the performance of a server system that is to be monitored (col. 3, line 64-col. 4, line 3), the method comprising:

- at a server system (service object) that is to poll, generating a single query requesting ("ascertains from") a compilation of information about the performance of a plurality of services offered by the monitored server system ("instantiations of the service entity") [col. 15, lines 65-67];
- transmitting the single query from the polling server system to the monitored server system [col. 15, lines 65-67]; and
- at the polling server system, receiving the compilation of information about the performance of the plurality of services offered by the monitored server system [fig. 8, step 806, col. 16, lines 61-65].

6. In considering claim **2**, **Daley** discloses:

- at the polling server system (service object), receiving from a client system (server management component) a request for at least some of the information contained in the compilation [fig. 7, step 704, col. 15, lines 43-51]; and

- transmitting the at least some of the information contained in the compilation from the polling server system to the client system in response to the request [fig. 7, step 708, col. 16, lines 18-20].

Daley does not explicitly teach a polling server system separate from a client system. Nonetheless, at the time of the invention it would have been obvious variation to separate the polling server (server object) from the client (server manager component). The client requesting information from the polling server, and the polling server generating a single query to the monitored server for the compilation information is functionally equivalent to a client comprising a polling server directly querying the monitored server for the compilation information. That is, implementing the polling server on the client as taught by Daley or having a separate polling server from the client to query a monitored server is one and the same function. See *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961)

7. In considering claim 3, Daley discloses:

- automatically transmitting at least some of the information contained in the compilation from the polling server system to a client system [fig. 7, step 708, col. 16, lines 18-20, col. 19, lines 1-10].

8. In considering claim 4, Daley discloses:

Art Unit: 2153

- the compilation comprises a status of network services of the monitored server system [fig. 5A, #108, "Status" column, col. 6, line 57 - col. 7, line 16].

9. In considering claim 5, Daley discloses:

- the network services comprise a directory service [fig. 5B-1, col. 17, lines 25-30].

10. In considering claim 6, Daley discloses:

- the network services comprise a message store service ("mailbox") [col. 6, line 66 – col. 7, line 5, col. 11, lines 11-22].

11. In considering claim 7, Daley discloses:

- the network services comprise a message transfer agent [col. 6, line 66 – col. 7, line 5, col. 16, lines 37-34].

12. In considering claim 8, Daley discloses:

- the network services comprise a facsimile communications service ("other network services") [col. 13, lines 29-36].

13. In considering claim 9, Daley discloses:

- the network services comprise an Internet communications service [col. 1, lines 10-29].

Art Unit: 2153

14. In considering claim **10**, Daley discloses:

- the network services comprise a messaging service (E-Mail Service) [col. 6, line 66 – col. 7, line 5]

15. In considering claim **18**, Daly discloses:

- at the polling server system, installing polling software capable of performing the step of transmitting the single query from the polling server system to the monitored server system [col. 16, lines 44-55, col. 6, lines 46-56]; and
- at the monitored server system, installing attendant software (“agent”) capable of generating the compilation of information about the performance of the plurality of services offered by the monitored server system [col. 16, lines 27-34, 66-67].

16. In considering claim **22**, Daly discloses:

- at the monitored server system, generating the compilation of information about the performance of the plurality of services offered by the monitored server system [col. 16, lines 56-65].

17. In considering claims **23 & 31**, Daly discloses:

- at the polling server system, using the compilation to update at least one server system list [fig. 8, step 806, col. 16, lines 56-65].

Art Unit: 2153

18. In considering independent claims **30 & 33**, Daley discloses a method comprising:

- at a server system that is to be monitored (“network servers”), receiving a single query from a server system that is to poll (“server object”), wherein the signal query requests a compilation of information about the performance of a plurality of services offered by the monitored server system (“instantiations of the service entity”) [col. 15, lines 65-67];
- at the monitored server system, generating the compilation of information about the performance of the plurality of services offered by the monitored server system [fig. 8, step 806, col. 16, lines 61-65]; and
- transmitting the compilation from the monitored server system to the polling server system [fig. 8, step 808, col. 17, lines 8-10].

19. In considering independent claim **37**, Daly discloses a method comprising:

- at a polling server system (server object), generating a single query requesting a compilation of information about the performance of a plurality of services offered by a monitored server system (“instantiations of the service entity”), wherein the single query is generated using polling software installed on the polling server system, wherein the polling server system is connected to the monitored server system over a network [col. 15, lines 65-67, col. 6, lines 46-56, col. 1, lines 10-29];

Art Unit: 2153

- transmitting the single query from the polling server system to the monitored server system over the network; and the act of, at the polling server system, receiving the compilation of information about the performance of the plurality of services offered by the monitored server system [fig. 8, step 806, col. 16, lines 61-65].

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims **11-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Daly** as applied to claim 1 above, and further in view of **Quan (US 5,230,051)**.

22. In considering claims **11 & 34**, while Daly discloses messaging service and reporting a compilation to the polling server, Daly does not explicitly disclose automatically attempting to establish a working connection to the mailbox of the messaging service, or reporting the result of such an attempt. Nonetheless, in analogous art, Quan also teaches a method of monitoring the performance of a messaging service system (col. 3, lines 43-58). Quan further discloses:

Art Unit: 2153

- at the monitored server system, automatically attempting to establish a working connection to a mailbox in the messaging service ("connect subroutine") [fig. 3, step 302, col. 10, lines 6-48];
- at the monitored server system, determining whether the working connection is established [fig. 3, step 302, col. 10, lines 6-48]; and

Given the teachings of Quan, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system/method disclosed by Daly to include a the step if automatically attempting to establish a connection to a mailbox and including the result on this attempt in the compilation generated in Daly's system. The motivation as suggested by Quan would be to keep track and log information related to the delivery and status of messages and in any event generate error notifications [col. 3, lines 43-58].

23. In considering claims **12 & 35**, Quan discloses:

- depending on the result of the step of determining, automatically attempting to determine whether a message is available at the mailbox [col. 10, lines 48-62].

For the reasons set forth above in reference to clam 11, at the time of the invention, it would have been obvious to also including the result of determining if whether a message is available in the mailbox in the compilation.

Art Unit: 2153

24. In considering claims **13 & 36**, Quan discloses:

- depending on the result of the step of automatically attempting to determine whether a message is available at the mailbox, attempting to read the message [fig. 5, step 508, col. 11, line 57 – col. 12, lines 18].

For the reasons set forth above in reference to claim 11, at the time of the invention, it would have been obvious to also report the result of attempting to read the message in the compilation.

25. In considering claim **14**, Quan does not explicitly disclose that establishing a connection to a messaging service depends on the acceptance of a security code.

Nonetheless, Examiner takes official notice that accepting security code while trying to establish a connection to a mailbox of a message service was well known in the art at the time of the invention. A very common feature of most mail systems is to prompt for a user name and password (security code).

26. In considering claim **15**, Quan discloses:

- automatically attempting to establish a working connection is driven by a detection of a failure in the messaging service [col. 14, lines 37-55].

27. In considering claim **16**, Quan discloses:

Art Unit: 2153

- exercising a software service used in the establishment of a user's working connection [col. 10, lines 6-48].

28. In considering claim 17, Quan discloses:

- the software service comprises a buffer service [col. 4, lines 10-21].

29. In considering claim 19, Daly discloses:

- the attendant software (agent) monitoring a time indicator (fig. 4, #60, clock) at the monitored server system [col. 5, lines 27-43, col. 16, lines 66-67]; and
- the attendant software including a time indication ("run-time activity") based at the monitored server system with the compilation [col. 12, lines 27-41, col. 17, lines 31-40].

30. Claims 20 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Daly** as applied to claim 1 above, and further in view of **Auty et al. (US 5,809,161)**.

31. In considering claim 20, Daly does not explicitly disclose a master time indicator at a polling server. Nonetheless, in related art of polling remote servers to acquire compilation of information ("images, including their associated data") [col. 28, lines 50-54], Auty discloses:

- the polling software monitoring a master time indicator at the polling server system to determine a master time indication [col. 32, lines 27-37]; and

Art Unit: 2153

- comparing the time indication in the compilation ("information received from the sites") with the master time indication of the polling server system [col. 32, lines 27-37].

Given the teachings of Auty, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system/method disclosed by Daly to compare the time indication in the compilation with that of the master time of the polling server. The motivation as suggested by Auty would be to synchronize the time indicators of the polling server and the monitored server to account for network propagation delays and link congestion [col. 32, lines 27-37].

32. In considering claim **21**, Auty discloses:

- if the difference between the time indication in the compilation and the master time indication exceeds a maximum permissible difference, the polling software at the polling server system causing the time indicator at the monitored server system to be updated to more accurately match the master time indication at the polling server system [col. 32, lines 27-37].

33. In considering claim **24**, while Daly discloses a server system list, Daley does not explicitly disclose a normal server list and a critical server list. Nonetheless, one of ordinal skill in the art would realize that Daly's list (see fig. 5A, #110) serves the same purpose as a normal list and critical list, in that it distinctly categories the status of each

Art Unit: 2153

server ("running"/normal or "not running"/critical) based on the polling results [col. 10, lines 8-10].

34. In considering claims **25 & 27**, Daly discloses a server system list. It is inherent that based on the polling results, the status of the monitored server system will be updated ("running", or "not running"). As set forth above in reference to claim 24, this distinction serves the same purpose as having a normal and critical list, whereby the status of the server system would govern to which list the monitored server system belongs. As such, it is obvious to one of ordinary skill in the art that the monitored server system will transfer from the normal list to the critical list once a deficiency is discovered (not running). In the same manner, the monitored server system will transfer from the critical list to the normal list once no deficiencies are present.

35. In considering claims **26 & 28**, Daly implicitly discloses:

- transferring the monitored server system from a normal server system list to a critical server system list (or from a critical server list to a normal server list) is caused by a polling software settings set in the polling server system by a system administrator [*--the network administrator may also initiate administration actions regarding the network service instantiations listed in the list 110--*], col. 7, lines 7-35].

36. In considering claim 29, Daly discloses:

Art Unit: 2153

- the polling software providing to the system administrator information about server system contained on the critical server system list more frequently than for the normal server system list [*--depending on which network service is selected, server manager component 104 may then invoke, if possible, an appropriate component to handle the actual administration--*”, col. 7, lines 7-35].

Conclusion

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avalon Blenman whose telephone number is (571) 272-5864. The examiner can normally be reached on Mon-Fri, 7:00 AM - 4:30 PM (even date Mons. off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/855,445

Page 15

Art Unit: 2153

Avalon Blenman
09/16/2005



Dung C. Dinh
Primary Examiner